

# Disciplinary Actions

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## Disciplinary Actions Reported For December

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of November 2001.

### Firms Fined, Individuals Sanctioned

**CNS Distributors, Inc. (CRD #43607, San Francisco, California) and John Kenneth Durden, Jr. (CRD #43607, Registered Principal, Livermore, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and the firm and Durden were fined \$10,000, jointly and severally. In addition, Durden was suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Durden, failed to make a securities record or ledger that reflected accurately all long and short positions held by customers and failed to perform a computation of the amount required to be deposited into a Special Reserve Account for the Exclusive Benefit of Customers. The findings also stated that the firm, acting through Durden, failed to establish a Special Reserve Account for the Exclusive Benefit of Customers and to deposit into the account the required amount, and failed to establish written supervisory procedures reasonably designed to ensure compliance with the SEC's Customer Protection Rule 15c3-3.

Durden's suspension began November 19, 2001, and concluded at the close of business November 26, 2001. **(NASD Case #C01010011)**

**First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) and Herbert Kurinsky (CRD #276776, Registered Principal, Long Branch, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000, jointly and severally, with Kurinsky. The fine includes the disgorgement of \$460 in connection with commissions received by the firm. Kurinsky was suspended from association with any NASD member in any supervisory capacity for 25 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Kurinsky, failed to report to the NASD the existence of "conditions" in accordance with NASD Conduct Rule 3070(b), and failed to report and to timely report to the NASD statistical and summary information regarding customer complaints. The findings also stated that the firm, acting through Kurinsky, permitted individuals to engage in the securities business of the firm as over-the-counter traders while not registered in any capacity. The NASD also found that the firm, acting through Kurinsky, permitted a registered representative to execute public customer securities transactions while his registration was inactive due to his failure to comply with the NASD Continuing Education Regulatory Element.

Kurinsky's suspension began November 19, 2001, and will conclude at the close of business December 13, 2001. **(NASD Case #C10010133)**

**Leader Investments, Inc. (CRD #42927, Arlington Heights, Illinois) and Richard Joseph Kapsch, Sr. (CRD #876560, Registered Principal, Palatine, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$27,500, jointly and severally, which includes restitution of \$10,712.91 to a public customer and disgorgement of \$8,868. The firm agreed to amend its written supervisory procedures relating to its mutual fund business to the satisfaction of the NASD. Kapsch was suspended from association with any NASD member in any principal capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Kapsch, failed to supervise a registered representative by failing to promptly detect and take adequate steps to curtail the excessive and unsuitable trading in mutual fund shares by the representative in the individual retirement account (IRA) of a public customer. The findings also stated that the firm, acting through Kapsch, failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to the firm's mutual fund business in that, among other things, the firm's procedures failed to include a sufficiently clear identification of the person(s) responsible for ensuring compliance; a statement as to what steps and reviews will be taken by the responsible person to ensure compliance; a statement as to how often the responsible person will conduct such reviews; and a statement as to how such reviews will be evidenced.

Kapsch's suspension will begin December 17, 2001, and will conclude at the close of business January 15, 2002. **(NASD Case #C8A010079)**

## **Firms and Individuals Fined**

**Delta Capital Securities Corporation (CRD #36367, Cordova, Tennessee) and Donald Lee Mundie (CRD #1623710, Registered Principal, Eads, Tennessee)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Mundie, participated in a "part or none" contingency offering and issued a reconfirmation offer to subscribers offering to extend retroactively the original expiration date thus rendering false the representation in the original offering circular that the contingency was being made on a "part or none" contingency basis. The findings also stated that the firm, acting through Mundie, broke escrow in the escrow bank account for an offering of preferred shares when the specified minimum number of shares required to close the issue was met, in part, by the sale of shares to a partner of an affiliate of the firm. **(NASD Case #C05010046)**

**First Republic Group, LLC (CRD #39781, New York, New York) and Anthony Robert LaGrega (CRD #2558435, Registered Principal, Aberdeen, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$23,500, jointly and severally. The firm was also required to disgorge \$31,902, representing a portion of the financial benefits

obtained by the firm. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through LaGrega, failed to file or timely file with the NASD statistical and summary information regarding written customer complaints received by the firm. The findings also stated that the firm, acting through LaGrega, failed to adopt, implement, and maintain adequate written supervisory procedures reasonably designed to address the reporting of customer complaints to the NASD. In addition, the NASD found that the firm, acting through LaGrega, permitted individuals to act in a capacity requiring registration while their registration status with the NASD was inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education Requirement. **(NASD Case #C10010134)**

**Founders Equity Securities, Inc. (CRD #41855, Dallas, Texas), and Thomas James Spackman, Jr., (CRD #2797920, Registered Principal, Dallas, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$11,500, jointly and severally. In addition, the firm was fined \$7,500, jointly and severally, with another individual. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Spackman, failed to deposit funds received in a separate bank account as agent or trustee or to promptly transmit funds received to a bank escrow account in connection with certain contingency offerings. The findings stated that the firm, acting through Spackman, deposited the funds into securities accounts under its control at a clearing firm. The NASD also determined that the

firm, acting through Spackman, held customers' funds in connection with these offerings and during this period, the firm failed to perform reserve computations and to make required deposits into a Special Reserve Bank Account for the Exclusive Benefit of Customers of the respective offerings. In addition, the NASD found that the firm rendered false the representation in an offering memorandum that the offering would terminate on or before a specified date when the firm continued the offerings. Furthermore, the findings stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. **(NASD Case #C06010033)**

**Hunter Securities Corporation (CRD #13134, South Orange, New Jersey) and Stephen Alan Steglitz (CRD #500512, Registered Principal, South Orange, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$11,820, jointly and severally, which includes the disgorgement of excess profits of \$1,820. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Steglitz, failed to establish and maintain supervisory procedures reasonably designed to achieve compliance with NASD rules. The findings also stated that the firm, acting through Steglitz, failed to implement written training plans and failed to complete a training needs analysis and to develop written training plans concerning the Firm Element of the Continuing Education Program. The NASD also found that the firm, acting through Steglitz, effected sales of various municipal bonds

to public customers on a principal basis at prices that were unfair and reasonable taking into consideration all relevant factors. **(NASD Case #C9B010091)**

**M.S. Farrell & Company, Inc. (CRD #24232, New York, New York) and Thomas Anthony Gallo (CRD #1705791, Registered Principal, Shrewsbury, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$25,000, jointly and severally. The firm was required to disgorge \$17,963.39 in commissions. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Gallo, continued to conduct a securities business although the firm's membership had been suspended for failure to pay an arbitration award. The findings also stated that the firm, acting through Gallo, failed to report to the NASD statistical and summary information regarding customer complaints received by the firm, an arbitration that the firm settled for an amount exceeding \$25,000, and customer claims that the firm settled for amounts exceeding \$25,000. The NASD found that the firm, acting through Gallo, permitted individuals associated with the firm to act as registered persons while their registration status with the NASD was inactive due to their failure to complete the Regulatory Element of the NASD's Continuing Education Requirement. In addition, the NASD found that the firm, acting through Gallo, failed to establish and maintain written supervisory procedures reasonably designed to ensure compliance with the Regulatory Element of the Continuing Education Requirements. **(NASD Case #C10010129)**

**SLS Securities Company (CRD #13332, Jersey City, New Jersey) and John William Bruno, Sr. (CRD #2401612, Registered Principal, Staten Island, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,000, jointly and severally. The firm was fined an additional \$3,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Bruno, permitted individuals to engage in the investment banking or securities business and/or function as representatives with the firm, by trading in a proprietary account of the firm, prior to properly qualifying and/or registering in the appropriate capacities. The NASD also found that the firm, acting through Bruno, permitted a registered representative to perform duties as a registered person, by trading in a proprietary account of the firm, while such representative's registration status with the NASD was inactive due to the representative's failure to timely complete the Regulatory Element of the NASD's Continuing Education Rule. In addition, the NASD determined that the firm, acting through Bruno, failed to enforce written supervisory procedures reasonably designed to achieve compliance with the Regulatory Element of the Continuing Education Requirements and registration. The findings also stated that the firm executed short-sale transactions in certain securities and failed to demonstrate that an affirmative determination was annotated for each of the transactions. **(NASD Case #C9B010086)**

**Valley Forge Securities, Inc., (BD #20892, Rosemont, Pennsylvania) and Robert Monroe Montani, Jr. (CRD #1284251, Registered Principal, Phoenixville, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Montani, failed to respond timely to NASD requests for information. **(NASD Case #C9A010042)**

### **Firms Fined**

**ABN AMRO Securities LLC (CRD #6540, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to revise its written supervisory procedures with respect to applicable securities laws and regulations concerning firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, orders were presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The firm failed to execute the orders upon presentment and thereby failed to honor its published quotations. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quotations. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the

identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance therewith; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS010150)**

**ABN AMRO Incorporated (CRD #15776, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures with respect to applicable securities laws and regulations concerning firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that as a registered market maker in securities, an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The firm failed to execute the orders upon presentment and thereby failed to honor its published quotations. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, and regulations concerning firm quotations. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance therewith; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written

supervisory procedures should be documented at the firm. **(NASD Case #CMS010152)**

**GKN Securities Corporation (CRD #19415, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which it was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to timely report to the NASD statistical and summary information regarding written customer complaints received by the firm. The findings also stated that the firm failed to maintain order tickets for transactions executed, failed to show both the time of entry and the time of execution on order tickets, and certain order tickets only contained the time of entry. The NASD also found that the firm incorrectly reported transactions to the Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) as short sales. **(NASD Case #C10010130)**

**Global Capital Securities Corporation f/k/a EBI Securities, Inc. (CRD #16184, Englewood, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it received a customer complaint, an arbitration complaint, and two lawsuits alleging misconduct by a former representative of the firm who was terminated. The NASD found that each of these matters contained information that was required to be disclosed in an amendment to the Uniform Notice of Securities Industry Termination (Form U-5) previously filed by the firm in connection with the representative's

termination. The findings also stated that the Form U-5 was not amended to disclose this information until after the NASD advised the firm of the need for an amendment. **(NASD Case #C3A010041)**

**Leonard & Company (CRD #36527, Troy, Michigan)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500, jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it effected transactions in securities when it failed to maintain its minimum required net capital. The NASD also found that the firm failed to prepare accurate trial balances and net capital computations and filed with the NASD a FOCUS Part IIA report that was inaccurate in that, among other things, it overstated the firm's net capital. **(NASD Case #C8A010067)**

**Needham & Company, Inc. (CRD #16360, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute, contemporaneously or partially, customer limit orders in Nasdaq securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. The findings also stated that the firm failed to reflect immediately retail customers' limit orders in its quotations. **(NASD Case #C10010126)**

**SunAmerica Securities, Inc. (CRD #20068, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report customer complaints in quarterly reports, filed a customer complaint late, failed to report matters on accelerated reports, and failed to report terminations for cause. The findings also stated that the firm failed to amend the Forms U-4 and U-5 (Uniform Registration Forms for electronic filing in Web CRD) for registered representatives after becoming aware of information that triggered an obligation to update the forms and was delinquent in amending the Form U-4 for registered representatives. The NASD found that the firm was late in amending the Form U-5 for registered representatives and failed to respond completely to NASD requests for information. In addition, the NASD determined that the firm's written supervisory procedures were not reasonably designed to ensure compliance with NASD Conduct Rule 3070, and to ensure that Forms U-4 and U-5 were promptly amended upon the receipt of information triggering an obligation to update the forms. **(NASD Case #C3A010042)**

**Trautman Wasserman & Company, Inc. (CRD #33007, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to show the correct time of execution on the memorandum of broker

orders involving Nasdaq National Market® (NNM®) securities and over-the-counter (OTC) transactions and failed to preserve for a period of not less than three years, the memorandum of a brokerage order involving an OTC transaction. The findings also stated that the firm erroneously reported NNM transactions to ACT, reported transactions to ACT without the required ".SLD" or ".B" modifiers, improperly reported a transaction to ACT with a ".B" modifier, improperly reported a transaction as a principal trade, and improperly reported a transaction to ACT as late. The firm also failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM, SmallCap<sup>SM</sup> and OTC Equity securities; failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NNM securities; and failed to designate through ACT such last-sale reports as late. The NASD also found that the firm failed to show the time of execution, or the correct time of execution, on brokerage order memoranda and failed to preserve brokerage order memoranda for a period of not less than three years. **(NASD Case #C10010135)**

### **Individuals Barred Or Suspended**

**Jack Asbury Alexander (CRD #2760, Registered Principal, Poway, California)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and required to cooperate with the NASD in any further investigation and hearing relating to his member firm and a speculative security. Without admitting or denying the allegations, Alexander consented to the described sanctions and to

the entry of findings that he recklessly caused his member firm to act as a marker maker in, and enter bids for, a speculative security on the Over-the-Counter Bulletin Board® (OTCBB) on a continuous basis when he was aware the firm was engaged in a distribution. The findings also stated that Alexander caused his firm to purchase stocks in the security from both customers and other broker/dealers for the firm's proprietary account, and caused the firm's sales force to recommend the purchase of the stock to retail customers while the distribution was still in progress. In addition, the NASD found that Alexander caused his firm to engage in a series of activities designed to artificially increase the price of the stock while dominating and controlling the market. Furthermore, the NASD found that Alexander recklessly, by the use of the means and instrumentalities of interstate commerce, or of the mails, employed devices, schemes, or artifices to defraud, made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business that operated, or would have operated, as a fraud or deceit upon customers in connection with the purchase or sale of securities. **(NASD Case #CAF010016)**

**James Warren Anderson (CRD #1060765, Registered Principal, Southlake, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000 and suspended from association with any NASD member in the capacity of a general securities principal for 20 days. Without admitting or denying the allegations, Anderson consented

to the described sanctions and to the entry of findings that he failed to establish and maintain a system to supervise registered representatives' activities at his member firm that was reasonably designed to achieve compliance with NASD rules. According to the findings, the representatives recommended purchase and sales transactions in the securities accounts of public customers without having reasonable grounds for believing that such recommendations were suitable for the customers in view of the frequency and nature of the recommended transactions and the customers' financial situations, objectives, circumstances, and needs.

Anderson's suspension began November 19, 2001, and concluded December 8, 2001. **(NASD Case #C02010049)**

**Keith Gordon Anderson (CRD #1401002, Registered Representative, Atlanta, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Anderson consented to the described sanctions and to the entry of findings that he recommended and engaged in a series of purchase and sale transactions in the account of public customers without having reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs.

Anderson's suspension began November 19, 2001, and concluded at the close of business December 3, 2001. **(NASD Case #C05010048)**

**Jeffrey Lee Atkinson (CRD #1679474, Registered Representative, Loveland, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 60 days, and required to disgorge \$5,812.03, plus interest, in commissions earned. Payment of the fine and satisfactory proof of payment of the disgorgement, plus interest, is required before Atkinson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Atkinson consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Atkinson's suspension began November 19, 2001, and will conclude at the close of business January 17, 2002. **(NASD Case #C8B010026)**

**Arthur Andre Bennett (CRD #4136303, Associated Person, Bronx, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 120 days. The fine must be paid before Bennett reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bennett consented to the described sanctions and to the entry of findings that he failed to disclose material facts on a Form U-4.

Bennett's suspension began November 19, 2001, and will conclude at the close of business March 28, 2002. **(NASD Case #C10010131)**

**James Joseph Black, Jr. (CRD #1487059, Registered Representative, Germantown, Tennessee)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay \$57,839.70 in restitution to a public customer. Satisfactory proof of payment of restitution must be made before Black reassociates with any NASD member. Without admitting or denying the allegations, Black consented to the described sanctions and to the entry of findings that he received funds totaling \$57,839.70 belonging to a public customer, deposited the funds into an account under his control, and converted the funds to his own use and benefit, without the knowledge or consent of the customer. The findings also stated that Black failed to respond to an NASD request to appear and provide on-the-record testimony. **(NASD Case #C05010024)**

**James Wilton Bowen (CRD #2850154, Registered Representative, Mt. Juliet, Tennessee)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bowen consented to the described sanction and to the entry of findings that he sent correspondence on his member firm's letterhead to a financial institution for a loan that contained false and misleading information in that the correspondence falsely indicated he was owed \$3,258 in commissions from his member

firm. The findings also stated that Bowen failed to obtain prior approval of the correspondence from a principal of his member firm. **(NASD Case #C05010047)**

**Ronald Duane Brouillette (CRD #1689348, Registered Representative, La Jolla, California)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Brouillette effected unauthorized trading in the accounts of public customers. Brouillette also failed to respond to NASD requests for information. **(NASD Case #C02010015)**

**Wanda Huff Brown (CRD #1877671, Registered Principal, Greenville, South Carolina)** was fined \$10,000 and suspended from association with any NASD member in any capacity for one year for failing to file FOCUS reports, and barred from association with any NASD member in any capacity for failing to respond. The fine shall be due and payable upon Brown's re-entry into the securities business. The sanctions were based on findings that Brown, on behalf of her member firm, failed to file FOCUS Part IIA reports with the NASD. In addition, Brown failed to respond to NASD requests for information.

Brown's bar became effective October 29, 2001. **(NASD Case #C07010035)**

**Dennis Lane Burgess (CRD #1020157, Registered Representative, Covington, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 60 days, and required to disgorge \$2,100, plus interest, in commissions to public customers.

Payment of the fine and satisfactory proof of payment of the disgorgement, plus interest, is required before Burgess reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Burgess consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed prior written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Burgess' suspension began November 19, 2001, and will conclude at the close of business January 17, 2002. **(NASD Case #C8B010025)**

**Tom Ray Byerly (CRD #2616833, Registered Representative, Sand Springs, Oklahoma)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Byerly reassociates with a member firm following the suspension, or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Byerly consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving permission from, his member firm of his intention to participate.

Byerly's suspension began November 19, 2001, and will conclude August 18, 2002. **(NASD Case #C3A010043)**

**Michael John Cambareri (CRD #2070535, Registered Representative, Mount Kisco, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cambareri consented to the described sanction and to the entry of findings that he engaged in outside business activities related to financial planning for which he received compensation without prior written notice to, or approval from, his member firm. The findings also stated that Cambareri failed to respond to NASD requests for information. **(NASD Case #C11010034)**

**John Joseph Carr, Jr. (CRD #2032129, Associated Person, Bayville, New Jersey)** was fined \$5,000 and suspended from association with any NASD member in any capacity for 45 days for executing securities transactions when not registered with the NASD, and barred from association with any NASD member in any capacity for failing to respond to NASD requests for information. The fine must be paid upon Carr's reentry into the securities industry. The sanctions were based on findings that Carr actively engaged in the securities business of a member firm by functioning as a registered representative even though he was not registered with the NASD in any capacity. The findings also stated that Carr failed to respond to NASD requests for information.

Carr's bar became effective October 29, 2001. **(NASD Case #C10010069)**

**Robert Anthony Celio (CRD #C05010049, Registered Principal, Broussard, Louisiana)** submitted a Letter of Acceptance,

Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Celio consented to the described sanction and to the entry of findings that he received an insurance refund check for \$10,000 made payable to a customer. The findings also stated that Celio failed to mail the check to the customer and, instead, endorsed the customer's name to the check, deposited the check into his personal checking account, and converted the funds to his own use and benefit without the customer's knowledge or consent. **(NASD Case #C05010049)**

**Adam Jonathan Cohen (CRD #2164816, Registered Principal, Jericho, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cohen consented to the described sanction and to the entry of findings that he failed to testify truthfully, accurately, non-deceptively and/or completely during an NASD on-the-record-interview and caused other individuals to do the same. The findings also stated that member firms, acting through Cohen, filed MC-400 applications with the NASD that contained false, misleading, inaccurate, or incomplete information regarding an individual's job functions with a member firm. The NASD also found that Cohen appeared before an NASD Statutory Disqualification Committee and failed to provide truthful, accurate, non-deceptive, and/or complete information regarding an individual and himself, and permitted the same individual whom he should have known was subject to statutory disqualification to remain associated with a member firm without

approvals from the Securities and Exchange Commission (SEC) or the NASD. In addition, the NASD found that Cohen submitted false, misleading, inaccurate, or incomplete information and written materials to the NASD on an application for a change of ownership and modification of a restriction agreement regarding the supervisory experiences of individuals.

Furthermore, the NASD found that a member firm, acting through Cohen, failed to register an individual with the NASD as a representative or principal when the individual was actively engaged in activities that required registration as a representative or principal. Moreover, the NASD found that a member firm, acting through Cohen, failed to report to the NASD that the firm had become associated in business and/or financial activities with a person subject to statutory disqualification and failed to amend a Form BD to disclose that this person and Cohen had become control persons of the firm. In addition, the NASD found that a member firm, acting through Cohen, failed to establish, maintain, and enforce an effective supervisory system to enable the firm to comply with federal securities laws and NASD rules addressing qualifications of, and registration procedures for, associated persons. Cohen also failed to update his Form U-4 to disclose that he was the subject of an NASD investigation and that he might be named in an NASD disciplinary action. **(NASD Case #C10990158)**

**Benjamin Conde (CRD #2397658, Registered Principal, Fairfield, New Jersey)** submitted an Offer of Settlement in which he was fined \$7,500, suspended from association with any NASD



member in any capacity for nine months, and required to pay \$11,700, plus interest, in restitution to public customers. The fine and restitution must be paid before Conde reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Conde consented to the described sanctions and to the entry of findings that he purchased and sold shares of stock in the accounts of public customers without the prior knowledge, authorization, or consent of the customers.

Conde's suspension began November 19, 2001, and will conclude August 18, 2002. **(NASD Case #C9B010052)**

**Stephen Contino (CRD #2440108, Registered Representative, York, South Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Contino reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Contino consented to the described sanctions and to the entry of findings that he failed to disclose his outside business activity to his member firm.

Contino's suspension began November 5, 2001, and concluded at the close of business December 4, 2001. **(NASD Case #C07010071)**

**Robin Ramoen Crespo (CRD #4190368, Registered Representative, Paterson, New Jersey)** submitted a Letter of

Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Crespo consented to the described sanctions and to the entry of findings that he failed to disclose material information on a Form U-4.

Crespo's suspension began November 19, 2001, and will conclude at the close of business January 2, 2002. **(NASD Case #C9B010087)**

**Robert Nicholas Damato (CRD #1618632, Registered Representative, East Brunswick, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two months. Without admitting or denying the allegations, Damato consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm in that he facilitated the investments made by public customers in a private placement offering of common stock.

Damato's suspension began November 1, 2001, and will conclude at the close of business December 31, 2001. **(NASD Case #C9B010084)**

**Daniel Guy Danker (CRD #2000099, Registered Principal, Indianapolis, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Danker consented to the described sanction and to the entry of findings that he was

responsible for the bookkeeping and daily operations of an investment company that sold investments in common stock to customers. The NASD determined that the funds received were not invested in the company but were commingled with other funds from investors who believed they were investing in other companies. The NASD found that the funds were deposited into bank accounts and distributed for the personal use of Danker and others. The findings also stated that Danker knowingly caused documents, including a stock confirmation statement, to be sent to investors substantiating their purported purchases of investment. **(NASD Case #C8A010077)**

**Christian Debiassi (CRD #3002925, Registered Representative, Naples, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Debiassi consented to the described sanction and to the entry of findings that he effected, or caused to be effected, trades in a public customer's account without obtaining the customer's prior authorization for the trades. The findings also stated that Debiassi failed to respond timely to NASD requests for information. **(NASD Case #C07010077)**

**John Michael Donaldson (CRD #1243689, Registered Representative, Basking Ridge, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Donaldson consented to the described sanctions and to the entry of findings that he provided

a public customer with incorrect price quotes on stock prices of positions held within the customer's accounts.

Donaldson's suspension began November 19, 2001, and concluded at the close of business December 10, 2001. **(NASD Case #C10010124)**

**Elliott George Downs (CRD #2795169, Registered Representative, Derry, Pennsylvania)** was fined \$25,000 and suspended from association with any NASD member in any capacity for two years for unauthorized transactions and failure to execute a sell order, fined \$50,000 and suspended from association with any NASD member in any capacity for one year for unsuitable recommendations, and barred from association with any NASD member in any capacity for material misrepresentations and omissions and failure to respond to NASD requests for information. The fine is due and payable upon Downs' reassociation with an NASD member. The sanctions were based on findings that Downs made material misrepresentations and omissions when making recommendations to public customers, including baseless price predictions, false statements, and inadequate risk disclosure. In addition, Downs made unauthorized transactions and failed to execute a transaction. Furthermore, Downs made unsuitable recommendations to a public customer.

Downs' bar became effective October 15, 2001. **(NASD Case #C07010031)**

**Dennis Leroy Dunn (CRD #1606413, Registered Representative, Salem, Oregon)** submitted a Letter of Acceptance, Waiver, and Consent in which he

was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Dunn reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dunn consented to the described sanctions and to the entry of findings that he effected securities transactions for public customers without being registered as a broker or dealer. The findings also stated that Dunn executed securities transactions without first obtaining written advice from his firm stating whether it had approved his participation in the transactions. In addition, the NASD found that Dunn deposited checks from public customers in his law firm operating account where they were commingled with Dunn's own funds until subsequently applied toward the customers' purchases of stock.

Dunn's suspension began November 19, 2001, and will conclude at the close of business November 18, 2003. **(NASD Case #C3B010017)**

**Evelyn Freeman (CRD #2665159, Registered Principal, Atlanta, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Freeman consented to the described sanction and to the entry of findings that she received \$19,500 from a public customer to be invested, deposited the funds into her personal banking account, and ultimately, only invested \$14,000 for the benefit of the customer. **(NASD Case #C07010076)**

**Richard Andrew Gallaher (CRD #1921881, Registered Representative, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gallaher consented to the described sanction and to the entry of findings that he engaged in private securities transactions in connection with the solicitation and sale of securities to investors without providing prior written notice to, and receiving approval from, his member firm. The findings also stated that Gallaher failed to respond completely to NASD requests for information. **(NASD Case #C04010038)**

**Melanie Garman-Shaffer (CRD #2062404, Registered Representative, Mt. Pleasant Mills, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$17,000, which includes disgorgement of \$11,800 in commissions, and suspended from association with any NASD member in any capacity for two months. Without admitting or denying the allegations, Garman-Shaffer consented to the described sanctions and to the entry of findings that she participated in a private securities transaction, failed to give written notice of her intention to engage in such activities to her member firm, and failed to receive written approval from the member firm prior to engaging in such activities.

Garman-Shaffer's suspension began December 3, 2001, and will conclude February 2, 2002. **(NASD Case #C9A010045)**

**Charles Evan Giaimo (CRD #2131244, Registered Principal, Westfield, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Giaimo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Giaimo consented to the described sanctions and to the entry of findings that he failed to amend his Form U-4 to disclose a customer complaint and an arbitration. The NASD also found that Giaimo willfully failed to disclose material facts on his Form U-4.

Giaimo's suspension began November 19, 2001, and will conclude May 18, 2002. **(NASD Case #C9B010089)**

**Jay Alan Gilston (CRD #1802595, Registered Representative, Bridgewater, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 10 business days. In light of the financial status of Gilston, no monetary sanctions have been imposed. Without admitting or denying the allegations, Gilston consented to the described sanction and to the entry of findings that he engaged in outside business activities and received compensation without prior written notification to, or approval from, his member firm.

Gilston's suspension began November 19, 2001, and concluded at the close of business December 3, 2001. **(NASD Case #C9B010083)**

**Thomas Albert Guice (CRD #2425808, Registered Representative, Baltimore, Maryland)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Guice reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Guice consented to the described sanctions and to the entry of findings that he sold promissory notes worth \$500,000 to investors outside the scope of his employment with his member firms and failed to provide written notice to his member firms describing the proposed transaction, his intentions to engage in such activities, and whether he received, or might receive, selling compensation.

Guice's suspension began December 3, 2001, and will conclude at the close of business December 2, 2003. **(NASD Case #C9A010044)**

**Gary Bennett Harkenreader (CRD #2384896, Registered Representative, White Haven, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Harkenreader consented to the described sanction and to the entry of findings that he failed to respond to NASD requests to appear and provide testimony. **(NASD Case #C9A010047)**

**Donald Lee Heyne (CRD #2444873, Registered Representative, Sioux Falls, South Dakota)** submitted a Letter of Acceptance, Waiver, and

Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Heyne consented to the described sanctions and to the entry of findings that he failed to respond completely to NASD requests for information.

Heyne's suspension began November 5, 2001, and will conclude at the close of business January 3, 2002. **(NASD Case #C04010035)**

**Samuel Joseph Iacino (CRD #871012, Registered Representative, Hermitage, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Iacino reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Iacino consented to the described sanctions and to the entry of findings that he recommended and sold callable certificates of deposit (CDs) to public customers, made material misrepresentations to the customers that the CDs would be called in a year, that the customers could redeem their CDs a year after purchase without penalty, and that the interest rate the CD paid for the first year would be the sole interest rate applicable to the CD. The findings also stated that Iacino made material misrepresentations and omitted to disclose to the customers that there would be minimal or no risk to their principal when, in fact, there was a risk if the CDs were redeemed prior to the maturity date.

Iacino's suspension began December 3, 2001, and will conclude at the close of business January 31, 2002. **(NASD Case #CAF010027)**

**Roy Wayne Isom (CRD #1631583, Registered Representative, Jasper, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Isom consented to the described sanction and to the entry of findings that he served as trustee for trusts that were established for the benefit of minor children and that during this time, he removed \$215,000 from the trusts and converted the funds to his own use and benefit without the authorization, knowledge, or consent of the trust grantor or the trust beneficiaries. The findings also stated that Isom failed to respond to NASD requests for information and documentation. **(NASD Case #C06010030)**

**Richard Michael Janicki (CRD #2236373, Registered Representative, Orland Park, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$34,400, plus interest, in restitution. Satisfactory proof of payment of restitution must be made before Janicki reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Janicki consented to the described sanctions and to the entry of findings that he caused \$34,400 to be withdrawn from the life insurance policies and securities accounts of a public customer and used the proceeds for his own use or benefit, or for purposes other than

for the benefit of the customer. **(NASD Case #C8A010076)**

**Jeffrey Arthur Kahn (CRD #263122, Registered Representative, Calabasas, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kahn consented to the described sanction and to the entry of findings that he executed securities transactions in the accounts of public customers without their prior knowledge, authorization, or consent. **(NASD Case #C02010058)**

**Gregory Clark Keesecker (CRD #2809959, Registered Representative, Wheeling, West Virginia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 business days and ordered to pay \$1,000 in disgorgement for commissions received. Satisfactory proof of payment of disgorgement must be made before Keesecker reassociates with any NASD member. Without admitting or denying the allegations, Keesecker consented to the described sanctions and to the entry of findings that he sold shares of initial public offerings (IPOs), and in connection with these alleged shares, negligently misrepresented that he had acquired these shares through agreements with member firms when in fact there were no agreements with these firms and the shares in the IPOs were never acquired.

Keesecker's suspension began November 5, 2001, and will conclude at the close of business December 17, 2001. **(NASD Case #C9A010023)**

**Reginald Bernard Knight (CRD #3100095, Registered Representative, West Palm Beach, Florida)** was barred from association with any NASD member in any capacity and required to pay \$2,095.75, plus interest, in restitution to a member firm. The sanctions were based on findings that Knight knowingly used funds that were credited to his securities account in error to effect securities transactions for personal profit. **(NASD Case #C07010034)**

**Robert Lynn Lasine (CRD #2293715, Registered Representative, Richmond, Virginia)** submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Lasine reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lasine consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on his Form U-4.

Lasine's suspension began November 19, 2001, and will conclude at the close of business January 18, 2002. **(NASD Case #C07010027)**

**Edward Linzer (CRD #1050490, Registered Representative, Mineola, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 days. Without admitting or denying the allegations, Linzer consented to the described sanctions and to the entry of findings that he actively engaged in the

management of his member firm without being registered as a principal with the NASD.

Linzer's suspension began November 19, 2001, and will conclude at the close of business December 3, 2001. **(NASD Case #C10010120)**

**Debra Janet Lyles (CRD #2308720, Registered Representative, Washington, DC)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lyles failed to disclose material information on her Form U-4 and failed to respond to NASD requests for information. **(NASD Case #C07010028)**

**Anthony John Marchiano (CRD #1205721, Registered Principal, Naples, Florida)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Marchiano consented to the described sanction and to the entry of findings that he failed to respond to an NASD request to appear and give testimony. **(NASD Case #CAF990048)**

**Allan Watkins Matthews (CRD #3111519, Registered Representative, Galveston, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Matthews consented to the described sanction and to the entry of findings that, without prior authorization, knowledge, or consent from insurance customers, he deposited customer checks totaling \$1,090 into his personal bank account. The findings stated that Matthews forwarded checks

totaling \$310 to the insurance company to pay portions of the customers' homeowners insurance premiums, retaining the difference of \$780 for his personal use and benefit. **(NASD Case #C06010032)**

**Thomas Vincent Meaglia (CRD #862483, Registered Representative, Monrovia, California) and Richard Steven Meza (CRD #2570853, Registered Representative, Lancaster, California)** submitted Offers of Settlement in which Meaglia was fined \$37,803.57 and suspended from association with any NASD member in any capacity for one year. Meza was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 days. Meaglia and Meza must pay the fines before they reassociate with any NASD member following the suspensions or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Meaglia and Meza exercised discretion in the accounts of public customers without having obtained prior written authorization from the customers and prior written acceptance of the accounts as discretionary by their member firm. The findings also stated that Meaglia and Meza recommended and engaged in purchase and sale transactions in the account of public customers without having reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customers on the basis of their financial situations, investment objectives, and needs.

Meaglia's suspension began November 5, 2001, and will conclude at the close of business

November 4, 2002. Meza's suspension began November 5, 2001, and concluded at the close of business November 14, 2001. **(NASD Case #C02010002)**

**Albert Medina (CRD #2730223, Registered Representative, Brooklyn, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Medina consented to the described sanction and to the entry of findings that he executed unauthorized transactions in the accounts of public customers without obtaining prior authorization from the customers. The NASD also found that Medina failed to respond timely to an NASD request for information. **(NASD Case #C07000086)**

**Jaffna V. More (CRD #2843698, Registered Representative, Mill Valley, California)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before More reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, More consented to the described sanctions and to the entry of findings that she signed the names of public customers to an option client information form without the knowledge and consent of the customers and submitted it to her member firm.

More's suspension began November 19, 2001, and concluded at the close of business December 3, 2001. **(NASD Case #C01010010)**

**Alex Hung Nguyen (CRD #2843949, Registered Representative, San Jose, California)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, Nguyen consented to the described sanctions and to the entry of findings that he created a letter purportedly from a public customer and signed the customer's name to the letter without her knowledge or consent, had the signature guaranteed, and provided the letter to a complex of mutual funds for the purpose of obtaining a commission.

Nguyen's suspension began December 3, 2001, and will conclude March 2, 2002. **(NASD Case #C01010007)**

**Erik Robert Olufson (CRD #2875845, Registered Representative, Miami, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Olufson engaged in fraudulent sales practices to induce public customers to purchase securities. The findings also stated that Olufson made baseless price predictions and failed to provide adequate risk disclosure to the customers. The NASD also found that Olufson acted as a registered representative with a member firm without being registered with the NASD and failed to respond to NASD requests for information. **(NASD Case #C07010039)**

**Khashayar Mehdi Pashakhan (CRD #2670228, Registered Representative, Irvine, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with

any NASD member in any capacity for six months. The fine must be paid before Pashakhan reassociates with any NASD member firm. Without admitting or denying the allegations, Pashakhan consented to the described sanctions and to the entry of findings that he participated in an outside business activity and failed to provide prompt written notification to his member firm of such activity. The findings also stated that Pashakhan engaged in a private securities transaction without prior written notice to, and approval from, his member firm.

Pashakhan's suspension began November 19, 2001, and will conclude at the close of business May 18, 2002. **(NASD Case #C02010059)**

**Shashin J. Patel (CRD #1043487, Registered Principal, Chicago, Illinois)** was barred from association with any NASD member in any capacity and ordered to pay \$325,000 in restitution to public customers. The sanction was based on findings that Patel participated in private securities transactions without providing prior oral or written notification to, and receiving permission from, his member firm. **(NASD Case #C8A010033)**

**Michael Dale Peay (CRD #2915288, Registered Representative, Allen, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Peay consented to the described sanction and to the entry of findings that without prior authorization, knowledge, or consent from the trustee of a customer account, he caused checks totaling \$29,833 to be drawn on the account, deposited

the checks into his personal securities account at his member firm, and utilized the funds for his personal use and benefit. **(NASD Case #C06010031)**

**LaRissa Lee Peltola (CRD #3254951, Registered Representative, Eagan, Minnesota)** submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Peltola consented to the described sanction and to the entry of findings that she willfully failed to disclose a material fact on her Form U-4. The findings also stated that Peltola failed to respond to NASD requests for information. **(NASD Case #C04010026)**

**John Lawton Phillips (CRD #2500981, Registered Representative, San Diego, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Phillips consented to the described sanction and to the entry of findings that he failed to establish and maintain a system to supervise a registered representative's activities that was reasonably designed to achieve compliance with certain NASD rules and failed to supervise the individual with respect to unsuitable recommendations. The findings also stated that Phillips recommended purchase and sale transactions for the account of a public customer without having reasonable grounds for believing that such recommendations were suitable for the customer in view of the frequency and nature of the recommended transactions and the customer's financial situation, objectives, circumstances, and needs. **(NASD Case #C02010048)**

**Mary Marie Price (CRD #3130830, Associated Person, Stacy, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Price consented to the described sanction and to the entry of findings that, without a public customer's knowledge or consent, she deposited a \$36,183.35 check made payable to the customer into an account over which she had control with the intention of using the funds for her own benefit or for some purpose other than the customer's benefit. The findings also stated that Price failed to respond to NASD requests for information. **(NASD Case #C04010039)**

**Lawrence Gerald Redmond (CRD #2663849, Registered Representative, Staten Island, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Redmond reassociates with any NASD member following the suspension. Without admitting or denying the allegations, Redmond consented to the described sanctions and to the entry of findings that while registered with a member firm, he purchased options in his personal account for which he knew he could not pay, willfully causing credit to be extended to him in contravention of Regulation T of the Interpretation of the Board of Governors of the Federal Reserve System. The findings also stated that Redmond entered false information into his firm's computer system indicating that he had deposited funds into his account for the option

purchases when, in fact, such deposits were never made.

Redmond's suspension began November 5, 2001, and will conclude at the close of business November 4, 2002. **(NASD Case #C10010119)**

**Raymon Salinas (CRD #2017792, Registered Representative, San Francisco, California)** was barred from association with any NASD member in any capacity. The sanction was based on finding that Salinas willfully failed to disclose a material fact on a Form U-4. **(NASD Case #C01000017)**

**James Andrew Sitter (CRD #2791924, Registered Representative, Pittsburgh, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 business days and ordered to pay disgorgement of \$8,000, representing commissions received. Without admitting or denying the allegations, Sitter consented to the described sanctions and to the entry of findings that while associated with a member firm, he sold shares of IPOs to public customers offered through another firm. The findings stated that Sitter negligently misrepresented that the firm had agreements with member firms to acquire shares in the IPOs and that through these agreements had acquired the shares. The NASD determined that there were no agreements between these firms and the shares in the IPOs were never acquired.

Sitter's suspension began December 3, 2001, and will conclude at the close of business January 14, 2002. **(NASD Case #C9A010027)**

**Samuel Thomas Southard (CRD #2390261, Registered Representative, Bayonet Point, Florida)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Southard consented to the described sanction and to the entry of findings that he forged the signature of an insurance customer on credit card applications and a check. The findings also stated that Southard added himself as an additional cardholder and effected purchases and cash advances without authorization. In addition, the NASD found that Southard willfully failed to amend his Form U-4 to disclose a material fact. **(NASD Case #C07010057)**

**Darrin Duane Spencer (CRD #2267888, Registered Principal, Chesterfield, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spencer consented to the described sanction and to the entry of findings that he engaged in inappropriate trading irregularities that resulted in profits and the subsequent payment of \$596,334.13 in restitution to his member firm. According to the findings, Spencer bought shares of stock from his member firm's inventory account, sold it to his personal account at the firm at a price that was below the current market price, and sold the stock from his personal account back to the firm's inventory account at a price that was higher than the closing bid price. The findings also stated that after shares of stock were canceled from his member firm's inventory account, Spencer purchased the stock in his

personal account at a price that was below the current market price and subsequently sold the stock from his personal account to the firm's inventory account at a price that was higher than the closing bid price. In addition, the NASD found that Spencer failed to respond to an NASD request for information. **(NASD Case #C04010036)**

**Gina M. Stevens (CRD #4264673, Registered Representative, Plainfield, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stevens consented to the described sanction and to the entry of finding that she willfully failed to update her Form U-4, in that she failed to disclose material information. **(NASD Case #C8A010071)**

**Frank William Sullivan (CRD #2734333, Registered Representative, Fairfield, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member firm in any capacity. Without admitting or denying the allegations, Sullivan consented to the described sanction and to the entry of findings that he entered into an agreement in which he agreed to pay bribes and kick-backs to individuals in return for his selection as the investment consultant and/or broker of record for public employee pension accounts. The NASD also found that Sullivan agreed to pay the individuals a percentage of any commissions or other fees he received as the investment consultant and/or broker of record. The findings stated that as a result of the agreement, Sullivan was selected as the broker of record

and his member firm was selected as the investment consultant in connection with the pension plans. **(NASD Case #C11010035)**

**Eileen Marie Torrillo (CRD #1477895, Registered Principal, Dix Hills, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Torrillo consented to the described sanction and to the entry of findings that she filed, or caused to be filed, with the NASD FOCUS reports that she knew contained false and misleading information. **(NASD Case #C10010128)**

**Thomas Arthur Turnure (CRD #1316278, Registered Principal, Wyckoff, New Jersey)** submitted an Offer of Settlement in which he was fined \$20,000, suspended from association with any NASD member in any capacity for 15 months, and required to appear and testify truthfully at any NASD disciplinary hearing with respect to this proceeding. The fine must be paid before Turnure reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Turnure consented to the described sanctions and to the entry of findings that he failed to implement, maintain, and enforce effective supervisory systems and procedures that would have enabled his member firm to comply with federal securities laws and NASD rules regarding underwriting and retail brokerage activities and the qualifications of, and registration process for, associated persons. The findings also stated that Turnure failed to take sufficient supervisory steps in response to red flags generated by customer

complaints. In addition, the NASD found that Turnure failed to establish, maintain, and enforce written supervisory procedures that would have enabled his member firm to prevent and detect the violations alleged in customer complaints.

Turnure's suspension began December 3, 2001, and will conclude March 2, 2003. **(NASD Case #C10010004)**

**Samuel Elias Urquidez (CRD #2915736, Registered Representative, Gonzales, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Urquidez consented to the described sanction and to the entry of findings that he exercised discretionary power in the account of a public customer without the customer giving him prior written authorization and without the account having been accepted by the firm. The findings also stated that Urquidez misappropriated \$14,500 from his member firm by improperly entering customer service credits and promotional credits to a customer's account. **(NASD Case #C01010012)**

**Anthony Martin Westonsmart (CRD #2046085, Registered Representative, Columbus, Georgia)** was barred from association with any NASD member in any capacity and required to pay \$9,127.50, plus interest, in restitution to a public customer. The sanctions are based on findings that Westonsmart converted customer's funds to his own use and benefit and forged a customer's endorsement on a check drawn to the customer's order, cashed the check, and converted a portion of the



proceeds to his own use and benefit. The findings also stated that Westonsmart failed to respond to NASD requests for information. **(NASD Case #C07010036)**

**Mark Richard Wozniak (CRD#1321641, Registered Representative, Granger, Indianapolis)** submitted an Offer of Settlement in which he was fined \$5,000, required to pay \$20,000 plus interest in restitution to public customers, and suspended from association with any NASD member in any capacity for three months. The fine must be paid and proof of restitution provided before Wozniak reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wozniak consented to the described sanctions and to the entry of finding that he participated, for compensation, in private securities transactions and failed to provide written notice to, and obtain written authorization from, his member firm prior to engaging in such transaction.

Wozniak's suspension began November 19, 2001, and will conclude at the close of business February 18, 2002. **(NASD Case #C8A010029)**

**Mark Abraham Zborowski (CRD #1325328, Registered Principal, New York, New York)** was fined \$10,000 and suspended from association with any NASD member in any principal capacity for six months for net capital violations, and barred from association with any NASD member in any capacity for failure to respond. The fine must be paid when and if Zborowski seeks to reenter the securities industry. The sanctions are based on findings

that Zborowski operated a member firm while failing to maintain the minimum required net capital. The findings also stated that Zborowski failed to respond to NASD requests for information.

Zborowski's bar became effective October 23, 2001. **(NASD Case #C10010076)**

### **Individuals Fined**

**James Charles Green (CRD #1776913, Registered Principal, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$12,500. Without admitting or denying the allegations, Green consented to the described sanctions and to the entry of findings that he caused his member firm to violate its NASD Membership Agreement in that he allowed the owner of the firm to act as a de facto principal and control person of the firm, and allowed the owner to function in a principal capacity although he was not registered with the NASD as a principal. The findings also stated that Green failed to maintain and enforce supervisory procedures at the firm regarding compliance with applicable SEC and NASD rules regarding marking customer order tickets and short sales. **(NASD Case #C10010122)**

**Lawrence Howard Harris (CRD #4039551, Registered Representative, Rohnert Park, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$41,832.81, which includes the disgorgement of a transaction profit of \$39,832.81. Without admitting or denying the allegations, Harris consented to the described sanctions and to the entry of findings that he purchased, or allowed to be purchased, shares of common stock for his account

held at a member firm at the public offering price per share. The NASD also found that Harris engaged in such activities while failing to give written notice to his member firm that he had opened and was maintaining the account, and failing to give written notice to the member firm at which he opened the account that he had become associated and then registered with his member firm. **(NASD Case #C8A010073)**

**Ezra Pascal Mager (CRD #316853, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$14,360.66, which includes the disgorgement of a transaction profit of \$12,360.66. Without admitting or denying the allegations, Mager consented to the described sanctions and to the entry of findings that he purchased, or allowed to be purchased, shares of common stock for his account held at a member firm at the public offering price per share. The NASD also found that Mager engaged in such activities while failing and neglecting to give written notice to his member firm that he had opened and was maintaining the account, and failed and neglected to give written notice to the member firm at which he opened the account that he had become associated and then registered with his member firm. **(NASD Case #C8A010074)**

**Edward Arnold Moos (CRD #339448, Registered Principal, Short Hills, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$20,500, which includes the disgorgement of a transaction profit of \$19,500. Without admitting or denying the allegations, Moos consented to the described sanctions and to

the entry of findings that, in contravention of the NASD Free-Riding and Withholding Rule, he purchased, or allowed to be purchased, shares of a common stock for the trust account he opened and held at a member firm at the public offering price. **(NASD Case #C8A010075)**

**Robert John Richmeier, Jr. (CRD #710982, Registered Representative, Littleton, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,848 which includes the disgorgement of commissions received of \$2,848. Without admitting or denying the allegations, Richmeier consented to the described sanctions and to the entry of findings that he failed to take all necessary steps to establish the availability of an exemption from registration for shares of securities that were purchased and resold, resulting in the sale of unregistered securities. **(NASD Case #C3A010044)**

**Warren Joseph Sulmasy (CRD #2352071, Associated Person, Nesconset, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, Sulmasy consented to the described sanctions and to the entry of findings that he caused his member firm to violate the terms of its NASD Membership Agreement by acting as a de facto principal and control person of the firm when the Agreement required him to have no involvement in the firm's business or operations or to act in any capacity requiring him to become a registered person. The findings also stated that Sulmasy acted in a principal capacity without being registered with the NASD as a principal. **(NASD Case #C10010121)**

## Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Savas Zafer Alkoc (CRD #2019226, Registered Representative, Lakewood, New Jersey)** was named as a respondent in an NASD complaint alleging that he settled a customer complaint away from his member firm for losses suffered by the customer totaling \$4,000 without the knowledge or consent of his member firm. The complaint also alleges that Alkoc received cash and checks from public customers totaling \$65,261.98 for investment purposes, and, instead, had treasurer's checks issued and deposited a portion of the funds in his personal securities account without the customer's authorization or consent to use their funds in this manner. **(NASD Case #C9A010043)**

**John Robert Bacon (CRD #4064268, Registered Representative, Deerfield Beach, Florida)** was named as respondent in an NASD complaint alleging that he received checks totaling \$5,000 from a public customer to be invested and received a new account form to establish a securities account. The allegations state that, instead of establishing the account and making the investment as instructed, Bacon converted the funds for his own use and benefit. The complaint

further alleges that Bacon failed to respond to NASD requests for information. **(NASD Case #C07010074)**

**Brian Coleman Barge (CRD #3243595, Registered Representative, Detroit, Michigan)** was named as a respondent in an NASD complaint alleging that he received \$1,225 from public customers to purchase automobile insurance policies and failed to apply the funds as directed and, without the knowledge or authorization of the customers, used the funds for his own benefit or for some purpose other than the benefit of the customers. The complaint also alleges that he affixed the signature of a public customer to an automobile insurance application without the knowledge or consent of the customer and failed to respond to NASD requests for information and documents. **(NASD Case #C8A010078)**

**Sheila Marie Cali (CRD #3082147, Registered Representative, Columbia, South Carolina)** was named as a respondent in an NASD complaint alleging that she received insurance premium payments from her public customers totaling \$1,698.15, failed to remit these payments to her member firm, and converted the funds to her own use and benefit. **(NASD Case #C07010075)**

**Anthony Francis DeCarlo (CRD #2568723, Registered Representative, Woodbridge, New Jersey)** was named as a respondent in an NASD complaint alleging that he reimbursed a public customer for a surrender charge without the knowledge or approval of his member firm. The NASD further alleges that DeCarlo failed to respond truthfully to the NASD during an on-the-record

interview. **(NASD Case #C9B010085)**

**George Patrick Ford, Jr. (CRD #2335245, Registered Principal, Rye, New York)** was named as a respondent in an NASD complaint alleging that he effected a transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent. **(NASD Case #C10010132)**

**Lewis Douglas Hanchell (CRD #3025649, Registered Representative, Miami, Florida)** was named as a respondent in an NASD complaint alleging that he effected trades in a public customer's account without authorization from the customer. The complaint further alleges that Hanchell failed to respond to NASD requests for information. **(NASD Case #C07010078)**

**Shannon Mae McDermott (CRD #4129251, Registered Representative, Granby, Missouri)** was named as a respondent in an NASD complaint alleging that, without the knowledge or consent of a public customer, she initiated cash withdrawals totaling \$4,500 from the customer's bank account, deposited the cash funds into an account she controlled, and used the funds for her own benefit or for some purpose other than the benefit of the customer. The complaint also alleges that McDermott failed to respond to NASD requests for information. **(NASD Case #C04010037)**

**Thomas Daniel Roskin (CRD #2267315, Registered Representative, New York, New York)** was named as a respondent in an NASD complaint alleging that he executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The

complaint also alleges that Roskin, through means or instrumentalities of interstate commerce or of the mails, intentionally, knowingly or recklessly employed a device, scheme, and artifice to defraud and manipulative, deceptive, or other fraudulent device or contrivance; omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon public customers. The complaint further alleges that Roskin made material, misleading, and/or false representations to public customers concerning securities that were without a reasonable basis and failed to disclose material information including, but not limited to, negative information about the companies and investment risks. In addition, the complaint alleges that Roskin exercised discretionary authority in the accounts of public customers without prior effective written authorization from public customers and without having his member firm's written acceptance of the account as discretionary. **(NASD Case #C10010140)**

**Stonebriar Securities, Inc. (CRD #19193, North Palm Beach, Florida) and Matthew James Fitzgibbon (CRD #4112304, Registered Principal, Columbus, Indiana)** were named as respondents in an NASD complaint alleging that the firm, acting through Fitzgibbon, recommended the purchase of common stock and made price predictions to public customers without having a reasonable basis for the representations and predictions. The complaint also alleges that the firm, acting through Fitzgibbon, failed to disclose to customers that the stock was a speculative investment, had flat revenues and

suffered losses, and had limited operating capital and needed additional funds to grow. The complaint further alleges that the firm failed to disclose the ownership of the stock and the sale of shares by accounts affiliated with and/or controlled by a representative of the firm. In addition, the complaint alleges that the firm failed to obtain information to timely approve accounts for penny stock trading, and to obtain written agreements for transactions involving penny stocks. The complaint alleges that Fitzgibbon guaranteed a public customer against loss in his account in connection with the recommendation to purchase a common stock and made unsuitable recommendations to public customers based on their trading inexperience and financial situations. Furthermore, the complaint alleges that Fitzgibbon failed to execute customer sell orders. **(NASD Case #C07010072)**

### **Firm Suspended For Failure To Supply Financial Information**

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

**The Sunnoor Corporation,**  
Lockwood, California  
(November 1, 2001)

**Individual Barred Pursuant To NASD Rule 9544 For Failure To Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)**

**Kesslak, Anthony J.,**  
Stephens City, Virginia  
(October 11, 2001)

**Individuals Suspended Pursuant To NASD Rule 9541(b) For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)**

**Armenta, Joseph E.,**  
Phoenix, Arizona  
(October 11, 2001)

**Baylor, Ky Nigel,**  
Columbus, Ohio  
(November 2, 2001)

**Benelli, Rosemary,**  
Sun City Center, Florida  
(October 25, 2001)

**Deane, Robert,**  
Albany, New York  
(October 26, 2001)

**Ferguson, Philip L.,**  
Fowlerton, Indiana  
(October 31, 2001)

**Grau, Steven A.,**  
Lighthouse Point, Florida  
(October 23, 2001)

**Hathaway, II, William,**  
Virginia Beach, Virginia  
(October 11, 2001)

**Humphreys, Kyle Wade,**  
Mesa, Arizona  
(October 11, 2001)

**Lowe, Anthony,**  
Cumming, Georgia  
(October 11, 2001)

**Individual Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With An Arbitration Award Or A Settlement Agreement**

The date the registration was suspended is included after the entry. If the individual has complied, the listing also includes the date the suspension was lifted.

**Roche, Estelle Alexandria,**  
Boca Raton, Florida  
(October 24, 2001 –  
November 15, 2001)

**NASD Regulation Hearing Panel Fines Ko Securities And Its President For Illegal Short Selling**

NASD Regulation announced that a disciplinary Hearing Panel has fined Ko Securities, Inc., together with its president, Terrance Yoshikawa, nearly \$150,000 for short-selling more than 46,000 shares of EntreMed, Inc., on May 4, 1998, without first ascertaining that the stock in question could be borrowed or delivered. The panel also fined Ko Securities \$15,000 for other violations of federal securities laws and NASD rules. Ko Securities is located in Seattle, Washington.

NASD's Affirmative Determination Rule requires that before a firm executes a short sale in a security in which it is not a bona fide market maker, it must make an affirmative determination that it can borrow or provide the securities for delivery by settlement date. The rule also requires that a member firm maintain a written record of such an affirmative determination.

On Sunday, May 3, 1998, *The New York Times* published an article stating that EntreMed had successfully completed clinical

trials for two new drugs that appeared to cure cancer in mice. The following morning, May 4, EntreMed's share price soared, opening at \$85, compared to a closing price of \$12 on the preceding Friday. EntreMed stock traded over 23 million shares on May 4, closing at \$51.823. This compares to just 19,150 shares on the previous trading day.

The Hearing Panel found that Ko Securities and Yoshikawa violated NASD's rules by selling short over 46,000 shares of EntreMed for the firm's account on May 4 without first determining that it could borrow EntreMed stock. The Panel's decision emphasized that the rule requires an NASD member to make and document an affirmative determination to protect the selling firm, the clearing firm, and the buyer. The panel rejected the claim that Ko had met the rule's requirements merely by covering the relevant short sales by day's end, and stated that Yoshikawa's defense was "wholly inconsistent with the underlying goals of 'additional discipline on short selling' and protecting marketplace integrity."

In assessing sanctions for the short-sale violations, the panel ordered Ko Securities and Yoshikawa to jointly pay a fine of \$147,450, which includes the profits earned from the illegal short sales. The panel also fined Ko Securities \$15,000 for violations of the Securities and Exchange Commission's record keeping rule and NASD's rule governing just and equitable principles of trade.

Ko Securities appealed the charges on November 5, and a cross appeal was filed by NASD Regulation's Enforcement Department on December 14.

## **NASD Regulation Sanctions Seven For Trade Or Move Violations**

NASD Regulation has settled seven separate disciplinary actions against firms for violations of the NASD's Trade or Move Rule. The seven firms involved in these actions were censured and fined a total of \$120,000.

The Trade or Move Rule applies to all securities listed on The Nasdaq Stock Market, and is designed to ensure that the markets for Nasdaq stocks open in a fair and orderly manner. Markets become locked and crossed when a market maker enters or maintains an "ask" price for a security that is the same or lower than the "bid" price of another market maker. Locked or crossed quotations may occur in fast-moving markets and can have significant impact on the opening of trading in newly offered securities. The rule requires firms that lock or cross the market during the time period between 9:20 a.m. to 9:30 a.m. EST to immediately send Trade or Move messages to the parties with whom it has locked or crossed. Firms receiving Trade or Move messages during this time period must, within 30 seconds of receipt, either execute the trade in full or move their quote to an unlocking price.

Compliance with the Trade or Move Rule is critically important to ensuring accurate pricing at the open of The Nasdaq Stock Market. The rule generally has been viewed, since its adoption in 2000, as having increased the ability of investors to get fair prices, increased market transparency, and improved price discovery in The Nasdaq Stock Market at the open.

The following firms were censured and fined a total of \$120,000 by NASD Regulation for violations of the Trade or Move Rule:

- National Financial Services, L.L.C., \$30,000 (includes a fine for locked and crossed violation during normal business hours);
- Windsor Capital Advisors, Inc., \$20,000;
- Prudential Securities Incorporated, \$20,000 (includes a fine for locked and crossed violation during normal business hours);
- Pershing Trading Company, L.P., \$20,000;
- Gerard Klauer Mattison & Co., Inc., \$10,000;
- BancBoston Robertson Stephens, \$10,000; and
- J.P. Morgan Securities, Inc., \$10,000.

These actions are the result of reviews conducted by the Trading Practices Section within NASD Regulation's Market Regulation Department. These firms have neither admitted nor denied the allegations, but have consented to the entry of findings pursuant to the settlements.

These disciplinary actions highlight NASD Regulation's commitment to enforce member compliance with trading rules essential to market quality and customer protection. NASD Regulation notes that industry-wide compliance with the Trade or Move Rule has improved considerably in recent periods of potential volatility, such as the September 2001 Expiration when equity, futures, and index options expired on the same date.